

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLEE A SMITH,

Plaintiff,

v.

JUSTIN J SMITH,

Defendant.

Case No. [21-cv-08691-TSH](#)

**ORDER GRANTING MOTION TO  
REMAND**

Re: Dkt. No. 6

Plaintiff Kimberlee Smith brought this case in Sonoma County Superior Court against her son, Defendant Justin Smith, related to student loans taken out by Kimberlee for Justin's education. Justin removed the case to this Court, and Kimberlee now moves to remand. ECF No. 6. She also seeks attorney's fees incurred as a result of the removal. Justin has filed a statement of non-opposition, stating he found the authorities cited by Kimberlee in her motion to remand "persuasive." ECF No. 11. As the motion is unopposed, the Court **GRANTS** Kimberlee's motion to remand this action to the Sonoma County Superior Court.

As to Kimberlee's request for attorney's fees, district courts have wide discretion regarding whether to award attorney fees in an order to remand. *See Moore v. Permanente Medical Group*, 981 F.2d 443, 447 (9th Cir. 1992); *see also* 28 U.S.C. § 1447(c). Here, Justin has not provided an objectively reasonable basis for removal, and he in fact states Kimberlee's motion to remand is persuasive. On this record, the Court finds an award of attorney's fees appropriate.


Kimberlee seeks \$2,700.00 in attorney's fees. Mot. at 7. In support of her request, she provided the declaration of her counsel, Seth W. Wiener, who states he charged \$300.00 per hour for his time on this case. ECF No. 6-1. The Court finds this rate is reasonable. Mr. Wiener states he spent five hours researching and drafting the instant motion, and that he expects to spend a

1 minimum of three hours reviewing the opposition and preparing a reply, and a minimum of one  
2 hour attending the hearing. Justin does not oppose Kimberlee's request but maintains that any  
3 award of attorneys' fees should exclude her attorney's anticipated fees for reviewing an  
4 opposition, preparing a reply, and attending the hearing. ECF No. 11. The Court agrees.  
5 Accordingly, the Court shall award \$1,500.00 (\$300/hr. x 5 hours) in attorney's fees.

6 The Clerk of Court shall remand this matter to the Sonoma County Superior Court and  
7 terminate the case.

8 **IT IS SO ORDERED.**

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10 Dated: November 30, 2021

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12 THOMAS S. HIXSON  
13 United States Magistrate Judge  
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United States District Court  
Northern District of California